

Family



## Common Questions about Divorce



Understanding key areas of divorce including the process, new legislation and more

Nash&Co  
Solicitors

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## **My marriage is over. What is the divorce process?**

On 6 April, the divorce process changed to a 'no fault' system.

Once the application is submitted, you must then wait 20 weeks before confirming you still wish to proceed with a divorce.

On confirming, a date will be set for a Conditional Order to be made, which replaced the Decree Nisi.

6 weeks and one day after the Conditional Order, you can apply for the Final Order, which replaced the Decree Absolute.

## **What grounds are there for divorce?**

There is only one 'ground' for divorce and that is the irretrievable breakdown of the marriage.

Previously, the Applicant would rely on one of 5 facts to prove to the Court that the marriage had broken down irretrievably, but this is no longer necessary.

You have to confirm to the Court that the marriage has irretrievably broken down. The Court has no right to question this.

## **When can I get a 'no fault divorce' and what is it?**

The good news is you can now get a no fault divorce! This legislation came into force on 6 April 2022.

This means couples can get divorced without having to explain why the marriage has broken down. If one party wants a divorce, they can get one.

Parties can also submit a joint application to the Court, which is not something that was possible previously.

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## **How long will it take to get divorced?**

The process will take a minimum of 26 weeks. From application, you must wait 20 weeks before applying for the Conditional Order and then a further 6 weeks and one day before the application for a Final Order can be made.

It is likely to take longer because the Court will need to process the applications for the Conditional and Final Orders, and it is common to delay the application for a Final Order until finances have been resolved.

The Court can reduce the 20-week period, but only in very extreme circumstances.

Generally, the divorce process is in a fixed timetable.

## **How much will it cost to get divorced?**

The Court fee for a divorce is currently £593. Applicants can make an Application for Help with Fees where their income and capital is assessed to determine if they can get help paying the fee.

Our fees for acting on your behalf as the Applicant are £650 plus VAT and £350 plus VAT as a respondent.

## **I am the Respondent in the divorce but I do not agree the marriage is over, how do I proceed?**

Previously, you would have been able to defend the divorce. However, this is no longer possible and unfortunately, if the Applicant informs the Court that your marriage has irretrievably broken down, the Court must accept that this is the case and the divorce will be allowed to proceed.

## **Does it make a difference who divorces who?**

In the long-term, it does not make a difference who divorces who. However, the Applicant does largely control the timing of the proceedings.

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## **My ex is defending the divorce, what are my options?**

Under the previous divorce law, it was possible for the party who received the divorce application to defend the divorce but these cases were rare.

However, under the new divorce law, defended divorces are not possible.

The Respondent can dispute the divorce, but only on grounds of jurisdictional issues, questions around whether there is a legal marriage, or if the Respondent has already issued an application.

## **My ex has moved abroad/I don't know where my ex is, how do I petition for divorce?**

If you have an email address for your ex, you can serve them with the divorce application by email, but a paper copy should also be sent to them.

If you do not have this information, efforts to locate the Respondent would need to be made. If you can prove to the Court that you have made all efforts to track the Respondent down, you may be able to proceed with a divorce.

## **When am I officially 'divorced'?**

You are officially divorced once the Court grants the Final Order. Until this date, you are still legally married. Once you have the Final Order, you are free to remarry.



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## **My ex has not returned the acknowledgement of service, what happens now?**

If the acknowledgement of service is not returned, after a period of time, the Court will contact the Applicant with their options.

You must prove that the Respondent has received a copy of the application. This would usually involve paying a process server to hand-deliver the application to the Respondent.

Once the Court knows for certain that the Respondent has been served, you can proceed with the application regardless of whether they return the acknowledgement of service or not.

## **I am the Respondent in the divorce, but my ex has not applied for the Final Order, what can I do?**

If there is a sole application for divorce, the Respondent must wait a further 3 months after the Applicant can apply for the Final Order before they can apply to conclude the divorce.

If there is a joint application, 6 weeks and one day after the Conditional Order, either party can apply and the other must complete that application within 14 days. If they do not, the party who has applied, can ask the Court to change the divorce to a sole application and then ask for the Final Order to be made.

However, if finances are yet to be resolved, it may be advisable to delay the application for the Final Order until they are. You should seek legal advice about the financial aspects arising from a divorce at an early stage.



Call us on 01752 827030



Email [enquiries@nash.co.uk](mailto:enquiries@nash.co.uk)

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